

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ELISEO C. JIMENEZ, )  
                          )  
Petitioner,           )  
                          )  
v.                     )           1:17CV788  
                          )  
HORRY COUNTY,          )  
                          )  
Respondent.           )

**ORDER**

On September 28, 2017, the United States Magistrate Judge's Recommendation was filed and on October 19, 2017, notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 3, 6.) However, Petitioner filed a Motion for Bond (Doc. 5). To the extent the Motion for Bond was intended as objections, the court has reviewed the Motion de novo and finds that it does not change the substance of the United States Magistrate Judge's Recommendation (Doc. 3). To the extent Petitioner seeks immediate release from custody, the Motion for Bond will be denied without prejudice to the Petitioner pursuing his claims on the proper forms in the proper forum as noted in the Recommendation.

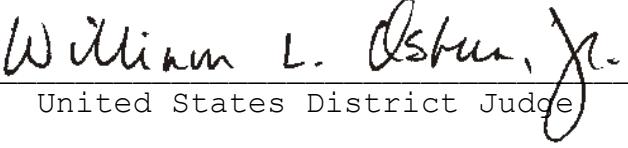
This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate

Judge's Recommendation. This court therefore adopts the Recommendation.

**IT IS THEREFORE ORDERED** that Petitioner's document (Doc. 2) is construed as a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, and that this action is hereby **DISMISSED WITHOUT PREJUDICE** to Petitioner filing a new petition, on the proper forms and in the proper court, correcting the defects set out in the Order and Recommendation. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

**IT IS FURTHER ORDERED** that the Motion for Bond (Doc. 5) is **DENIED WITHOUT PREJUDICE**.

This the 16th day of January, 2018.

  
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United States District Judge